

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 14-1004V

Filed: October 20, 2015

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UNPUBLISHED

IRWIN REICH,

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Special Master Hamilton-Fieldman

Petitioner,

\*

v.

\*

Attorneys' Fees and Costs; Reasonable

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Amount Requested to which Respondent

SECRETARY OF HEALTH

\*

Does Not Object.

AND HUMAN SERVICES,

\*

\*

Respondent.

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Nora Constance Marino, Law Offices of Nora Constance Marino, Great Neck, NY, for Petitioner.  
Adriana Teitel, United States Department of Justice, Washington, DC, for Respondent.

### DECISION<sup>1</sup>

On October 16, 2014, Irwin Reich ("Petitioner") filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 *et seq.* (2006) ("Vaccine Act"). Petitioner alleged that the administration of an influenza ("flu") vaccine<sup>2</sup> on October 25, 2012 caused him to suffer from Guillain-Barré Syndrome ("GBS"). Petition ("Pet.") at 1-4. On July 30, 2015, the undersigned filed a decision dismissing the case for insufficient proof. Decision, ECF No. 26.

On October 20, 2015, Respondent filed a "Stipulation of Facts Concerning Attorneys' Fees and Costs". Pursuant to their Stipulation, the parties have agreed to an award of \$11,000.00 in attorneys' fees and costs. In accordance with General Order #9, Petitioner's counsel represents that Petitioner has not incurred any costs in pursuit of this claim. Stipulation, ECF No. 31.

The undersigned finds that this petition was brought in good faith and that there existed a reasonable basis for the claim. Therefore, an award for fees and costs is appropriate, pursuant to

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<sup>1</sup> The undersigned intends to post this unpublished decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). As provided by Vaccine Rule 18(b), each party has 14 days within which to file a motion for redaction "of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." In the absence of such motion, the entire decision will be available to the public. *Id.*

<sup>2</sup> Petitioner also alleged that a shingles vaccination, received on December 10, 2012, caused his injury. However, this is not a covered vaccine under the Vaccine Act. 42 C.F.R. § 100.3(a).

42 U.S.C. § 300aa-15(b) and (e)(1). Further, the proposed amount seems reasonable and appropriate. **Accordingly, the undersigned hereby awards the amount of \$11,000.00, in the form of a check made payable jointly to Petitioner and Petitioner's counsel, Nora Constance Marino.**

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.<sup>3</sup>

**IT IS SO ORDERED.**

/s/ Lisa D. Hamilton-Fieldman  
Lisa D. Hamilton-Fieldman  
Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.